

FILED

2009 NOV 18 PM 3:12

CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

ALAN HIMMELFARB - SBN 90480
ahimmelfarb@kamberedelson.com
KAMBEREDELSON, LLP
2757 Leonis Boulevard
Vernon, California 90058
Telephone: (323) 585-8696
Fax: (323) 585-8198

JAY EDELSON (jedelson@kamberedelson.com)
MICHAEL J. ASCHENBRENER (maschenbrener@kamberedelson.com)
BENJAMIN H. RICHMAN (brichman@kamberedelson.com)
KAMBEREDELSON, LLC
350 North LaSalle Street, Suite 1300
Chicago, Illinois 60654
Telephone: (312) 589-6370
Fax: (312) 589-6378

ATTORNEYS FOR PLAINTIFF

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CV 09-8497 MMM VDKx

STEWART RESMER, an individual, on
behalf of himself and all others similarly
situated,

Plaintiff,

v.

OVERSEE.NET, INC., a California
corporation, and SNAPNAMES.COM, INC.,
an Oregon Corporation,

Defendants.

) Case No.

) COMPLAINT FOR:

-) 1. Violation of California Auction Law, Cal. Civ. Code § 1812.608(h)(2)
-) 2. Violations of Cal. Civ. Code §§ 1572, 1573, 1709, & 1710
-) 3. Violation of Cal. Bus. & Prof. Code § 17200 et seq.
-) 4. Breach of Fiduciary Duty
-) 5. Fraudulent Concealment
-) 6. Restitution/Unjust Enrichment

) DEMAND FOR JURY TRIAL

) CLASS ACTION

BY FAX

COMPLAINT

1 Plaintiff, by his attorneys, upon personal knowledge as to himself and his own acts
2 and upon information and belief as to all other matters, alleges as follows:

3 **NATURE OF THE ACTION**

4 1. Plaintiff Stewart Resmer ("Plaintiff" or "Mr. Resmer") brings this class action
5 complaint against Defendants Oversee.net, Inc. ("Oversee.net" or "Oversee") and
6 SnapNames.com, Inc. ("SnapNames.com" or "SnapNames") (collectively, "Defendants") for
7 Defendants' practice of artificially inflating the prices in its auctions for expired domain
8 names.

9 2. SnapNames, which is wholly owned by Oversee, is the largest online auction
10 site at which to purchase expiring domain names.

11 3. On or about November 4, 2009, SnapNames admitted that one of its
12 employees bid in a significant percentage of its auctions from 2005 through 2009.

13 4. As a result, Defendants benefited from increased auction purchase prices.

14 **PARTIES**

15 5. Plaintiff Stewart Resmer is a resident of Los Angeles, California.

16 6. Defendant Oversee.net, Inc. specializes in services related to domain names
17 and is the parent company of SnapNames. It is a California corporation headquartered in Los
18 Angeles County, California at 515 South Flower Street, Los Angeles, California 90071.
19 Oversee.net, Inc. does business throughout the State of California and the nation.

20 7. Defendant SnapNames.com, Inc. conducts online auctions to allow the
21 purchase of expired Internet domain names. It is an Oregon corporation headquartered in
22 Multnomah County, Oregon at 1600 SW 4th Avenue, Suite 400, Portland, Oregon 97201.
23 SnapNames.com, Inc. does business throughout the State of California and the nation.

24 **JURISDICTION AND VENUE**

25 8. This Court has jurisdiction over the subject matter of this action pursuant to
26 28 U.S.C. §§ 1332(d), because (a) at least one member of the putative class is a citizen of a
27

1 state different from Defendants, (b) the amount in controversy exceeds \$5,000,000, exclusive
2 of interest and costs, and (c) none of the exceptions under that subsection apply to this action.

3 9. There is minimal diversity between the proposed Class and Defendants.
4 Every person in the United States who participated in a SnapNames auction is a member of
5 the proposed Class, and SnapNames offered hundreds of thousands of auctions over the
6 internet affecting individuals across the fifty states. There is a reasonable presumption that
7 there is at least one member of the proposed class who is a citizen of a state besides
8 California or Oregon. Consequently, Plaintiff has established minimal diversity between
9 Defendants and at least one class member, and this Court has diversity jurisdiction under 28
10 U.S.C. § 1332(d)(2).

11 10. Personal jurisdiction and venue are proper because Oversee.net is a
12 corporation headquartered in Los Angeles County and/or because the improper conduct
13 alleged in this Complaint occurred in, was directed from, and/or emanated or exported from
14 California.

15 **FACTS RELATING TO DEFENDANTS**

16 11. SnapNames.com was formed in 2000 and was acquired by Oversee.net in
17 2007.

18 12. SnapNames conducts auctions to resell domain names.

19 13. SnapNames acquires expired domain names primarily from domain registrars,
20 including Dotster, Register.com, Melbourne IT, DotRegistrar, Domain People, Moniker,
21 DirectNIC, and others.

22 14. Domain registrars are the companies that manage the reservation of Internet
23 domain names.

24 15. Domain names are often purchased for limited time periods. (E.g., for a one-
25 year period.) If the registrant chooses not to renew the domain name registration, then the
26 domain name may become available for repurchase by the public.

1 16. Because domain name registrars control the reservations of domain names,
2 they are uniquely positioned to control the reselling of domain names.

3 17. Many domain name registrars, among others, turn to SnapNames to facilitate
4 the resale of domain names.

5 18. When a domain name is released to SnapNames, it places the domain name up
6 for auction online and allows the public to bid on the domain name. In many ways, this
7 operates much like the sale of foreclosed homes, which is an apt comparison because domain
8 names are the Internet equivalent of real estate—build your business at a good address, be it
9 physical or electronic, and you have a much greater likelihood of success. For this reason,
10 Internet domain names can be incredibly valuable.

11 19. Unfortunately for many SnapNames bidders, including Plaintiff, a frequent
12 bidder in many SnapNames auctions was a SnapNames employee who went by the bidding
13 name “halvarez.”

14 20. halvarez bid in approximately 50,000 auctions or more from 2005 through
15 2009, thereby artificially raising the sale prices in these auctions and causing the bidders to
16 spend thousands, if not millions of extra dollars. This is analogous to the bank that owns
17 foreclosed homes secretly bidding in its own auctions to artificially increase the final amount
18 paid by the winning bidder.

19 21. In most auctions, halvarez was not the winning bidder—he merely drove up
20 the final price. In some other auctions, halvarez was the winning bidder and then arranged to
21 be reimbursed by SnapNames.

22 22. The shill bidding occurred primarily in 2005, 2006, and 2007, but also
23 occurred in 2008 and 2009.

23. For years, users have complained about halvarez's bidding activity, but SnapNames specifically and explicitly denied that halvarez was a company employee:¹

This comes up every once in a while where certain prodigious customers at SnapNames are accused of being actually SnapNames itself. This is not the case. SnapNames has not and will not ever participate in an auction it itself is running as an anonymous bidder. We have never done any shill bidding or granted any auction participant any sort of discount or rebate. The price displayed is the price paid, for everyone, Halvarez included. Please email me direct (kjel-at-snapnames.com) with any questions.

www.SnapNames.com

24. On or about November 4, 2009, SnapNames released a statement admitting that one of its employees engaged in shill bidding during this time frame. It also offered to partially compensate some, but not all affected bidders. Defendants' insufficient refund process requires bidders to sign comprehensive liability waivers in exchange for inadequate compensation.

25. SnapNames' earlier denial that halvarez was an employee or that SnapNames was engaged in shill bidding were false statements. Reports indicate halvarez's real name is Nelson Brady, former Vice President of Engineering for SnapNames.

FACTS RELATING TO PLAINTIFF

26. On July 21, 2006, Mr. Resmer participated in a SnapNames auction for the domain name "wedriveyou.com."

27. On that date, a SnapNames employee using the screen name "halvarez" also participated in that auction.

28. Mr. Resmer won the auction for the domain name "wedriveyou.com."

29. Mr. Resmer's winning bid for the domain name "wedriveyou.com" was \$80.00.

¹ <http://www.dnforum.com/f557/important-message-snapnames-5-thread-197282.html#post1337656>

1 30. Had halvarez not participated in the “wedriveyou.com” auction, the winning
2 bid for the “wedriveyou.com” domain name would have been \$60.00, rather than the \$80.00
3 paid by Mr. Resmer.

4 31. Mr. Resmer overpaid a minimum of \$20.00 as a result of halvarez’s
5 participation in the auction.

6 **FACTS RELATING TO PLAINTIFF’S FRAUD CAUSES OF ACTION**

7 32. On July 21, 2006, at the website www.snapnames.com, a SnapNames
8 employee, utilizing the screen name “halvarez,” by virtue of his participation in the auction
9 of the “wedriveyou.com” domain name, falsely represented that he was an individual
10 unrelated and unassociated with SnapNames, and was independently participating as a
11 member of the public in the bidding for the “wedriveyou.com” domain name.

12 33. Each bid made by halvarez on July 21, 2006, in the “wedriveyou.com”
13 auction was a fraudulent bid. halvarez had no intention or desire to actually win the
14 “wedriveyou.com” auction. With each bid, halvarez sought only to increase the final price
15 paid by the winning bidder. halvarez was not participating in the auction as an individual
16 unrelated and unassociated with SnapNames, nor independently participating as a member of
17 the public in the bidding for the “wedriveyou.com” domain name.

18 34. halvarez intended that Mr. Resmer rely upon the representations that
19 halvarez’s bids were legitimate bids from an independent member of the public unaffiliated
20 with SnapNames, and that halvarez’s actions in bidding were motivated by a desire to prevail
21 in the domain name auction in order to place a winning bid for the best possible price, rather
22 than the motivation to inflate the auction price in an attempt to force Mr. Resmer to pay a
23 higher price for the domain than he would have otherwise.

24 35. halvarez did not disclose that he was bidding for the purpose of inflating the
25 prices that legitimate bidders would pay, and that if he, halvarez, actually ended up as the
26
27
28

1 winning bidder, he would be reimbursed for the bid price. halvarez had no intention of being
2 the winning bidder when he placed his bids.

3 36. The above-described conduct engaged in by halvarez with respect to the
4 “wedriveyou.com” domain name auction on July 21, 2006 was identically engaged and
5 repeated in approximately 50,000 other auctions over a period of five years. halvarez utilized
6 the same means, motivations, and methods in each of the thousands of other auctions as he
7 used in the “wedriveyou.com” auction.

8 CLASS ALLEGATIONS

9 37. Plaintiff Resmer brings this action pursuant to Fed. R. Civ. P. 23(b)(2) and
10 23(b)(3) on behalf of himself, a Class, and a sub-Class of all others similarly situated defined
11 as follows:

12 **The Global Effect Class:** All individuals and entities in the United States who
13 bid in any SnapNames.com auction for Internet domain names during the time
14 when SnapNames.com or Oversee.net employees or agents bid without disclosing
15 that fact to the bidders (approximately January 1, 2005) through and including
November 4, 2009.

16 **The Direct Effect Sub-Class:** All individuals and entities in the United States (1)
17 who bid in one or more SnapNames.com auctions for Internet domain names in
18 which a SnapNames.com or Oversee.net employee or agent, including but not
19 limited to the employee known as “halvarez,” bid without disclosing that fact to
the bidders, (2) whose bidding was affected by the employee bidding, and (3) who
20 have not received complete compensation for any damage incurred as a result of
the employee bidding.

21 Excluded from the Classes are 1) Defendants, their legal representatives, assigns, and
22 successors, and any entity in which Defendants have a controlling interest; 2) any judge to
23 whom this case is assigned and those judges’ immediate families; and, 3) any attorney who
24 appears in a case concerning the conduct alleged herein and those attorneys’ immediate,
25 blood, and marital family members.

1 38. The Classes consist of thousands of individuals and other entities, making
2 joinder impractical.

3 39. Plaintiff's claims are typical of the claims of all of the other members of the
4 Classes. Each Class member was affected in the same way as Plaintiff Resmer: an employee
5 of Defendants secretly bid in SnapNames.com auctions, thereby affecting the purchase price
6 and the bidding of sub-Class members and Class member bidders generally.

7 40. Plaintiff will fairly and adequately represent and protect the interests of the
8 other members of the Classes. Plaintiff has retained counsel with substantial experience in
9 prosecuting complex litigation and class actions. Plaintiff and his counsel are committed to
10 vigorously prosecuting this action on behalf of the members of the Classes, and have the
11 financial resources to do so. Neither Plaintiff nor his counsel have any interest adverse to
12 those of the other members of the Classes.

13 41. Absent a class action, most members of the Classes would find the cost of
14 litigating their claims to be prohibitive and will have no effective remedy. The class
15 treatment of common questions of law and fact is also superior to multiple individual actions
16 or piecemeal litigation in that it conserves the resources of the courts and the litigants, and
17 promotes consistency and efficiency of adjudication.

18 42. Defendants have acted and failed to act on grounds generally applicable to
19 Plaintiff and the other members of the Classes, requiring the Court's imposition of uniform
20 relief to ensure compatible standards of conduct toward the members of the Classes.

21 43. The factual and legal bases of Defendants' liability to Plaintiff and to the other
22 members of the Classes are the same, resulting in injury to Plaintiff and all of the other
23 members of the Classes. Plaintiff and the other members of the Classes have all suffered
24 harm and damages as a result of Defendants' wrongful conduct.

1 44. There are many questions of law and fact common to Plaintiff's claims and
2 the claims of the other members of the Classes. Common questions for the Classes include
3 but are not limited to the following:

- 4 a) the means and methods by which one or more of Defendants' employees
5 participated in Defendants' auctions;
6 b) whether Defendants' conduct described herein constitutes a violation of
7 California Auction Law, Cal. Civ. Code § 1812.608(h)(2);
8 c) whether Defendants' conduct described herein constitutes a violation of Cal.
9 Civ. Code §§ 1572, 1573, 1709, and 1710;
10 d) whether Defendants' conduct described herein constitutes a violation of Cal.
11 Bus. & Prof. Code § 17200 et seq.;
12 e) whether Defendants' conduct described herein constitutes fraudulent
13 concealment; and
14 f) whether Defendants' conduct described herein permitted Defendants to
15 unjustly receive money belonging to Plaintiff and the Classes, and whether
16 under principles of equity and good conscience, Defendants should not be
17 permitted to retain it.

18 45. The questions of law and fact common to the members of the Classes
19 predominate over any questions affecting only individual members and a class action is
20 superior to all other available methods for the fair and efficient adjudication of this
21 controversy.

22 46. Plaintiff reserves the right to revise the Class definitions based on facts
23 learned in discovery.

FIRST CAUSE OF ACTION

Violation of California Auction Law, Cal. Civ. Code § 1812.608(h)(2)

(On behalf of Plaintiff and both Classes)

47. Plaintiff incorporates by reference the foregoing allegations.

48. A violation of Cal. Civ. Code § 1812.608(h)(2) occurs when an auction company “[c]ause[s] or allow[s] any person to bid at a sale for the sole purpose of increasing the bid on any item or items being sold by the auctioneer” and includes instances in which the auction company “[a]llow[s] the owner, consignor, or agent thereof, of any item or items to bid on the item or items, without disclosing to the audience that the owner, consignor, or agent thereof has reserved the right to so bid.”

49. Defendants Oversee.net and SnapNames.com are both “auction companies” as defined by Cal. Civ. Code § 1812.601(c).

50. Defendants Oversee.net and SnapNames.com both conduct “auctions” as defined by Cal. Civ. Code § 1812.601(b).

51. “halvarez” was an “employee” of Defendants during the relevant time period as defined by Cal. Civ. Code § 1812.601(e).

52. Defendants Oversee.net and SnapNames.com are “employers” as defined by Cal. Civ. Code § 1812.601(f).

53. Plaintiff Resmer is a “person” as defined by Cal. Civ. Code § 1812.601(h).

54. Defendants Oversee.net and SnapNames.com caused or allowed their employee known as “halvarez” to bid at thousands of their Internet domain name auctions for the sole purpose of inflating the bidding price on such domain names without disclosing that halvarez was an employee of Defendants.

55. Defendants’ violations of § 1812.608(h)(2) have caused injury to Plaintiff and the Classes by increasing the prices they paid for Internet domain names sold through SnapNames auctions.

SECOND CAUSE OF ACTION

Violations of Cal. Civ. Code §§ 1572, 1573, 1709, & 1710

(On behalf of Plaintiff and both Classes)

61. Plaintiff incorporates by reference the foregoing allegations.

62. Cal. Civ. Code § 1709 prohibits willful deception of another with intent to induce a detrimental change in position.

63. Cal. Civ. Code § 1710 provides in relevant part that “deceit within the meaning of [§ 1709], is . . . [t]he suppression of a fact, by one who is bound to disclose it”

64. Cal. Civ. Code § 1572 provides in relevant part that actual fraud exists when a party to a contract suppresses “that which is true, by one having knowledge or belief of the fact” “with intent to deceive another party thereto, or to induce him to enter into the contract.”

65. Cal. Civ. Code § 1573 provides in relevant part that constructive fraud exists “[i]n any such act or omission as the law specially declares to be fraudulent, without respect to actual fraud.”

66. Defendants violated §§ 1710(3), 1572(3), and 1573(2) by suppressing the fact that their auctions involved systematic shill bidding, as described above.

67. Plaintiff and the other members of the Classes suffered damages as a direct and proximate result of Defendants’ suppression of shill bidding and fraud, both actual and constructive, alleged herein.

68. Pursuant to Cal. Civ. Code § 1709, Defendants Oversee.net and SnapNames.com are liable for any damage that was proximately caused to Plaintiff and the other members of the Classes by Defendants’ deceit.

69. Plaintiff, on behalf of himself and the Classes, seeks damages from Defendants Oversee.net and SnapNames.com, including but not limited to disgorgement of

all proceeds Defendants Oversee.net and SnapNames.com obtained from its unlawful business practices, reimbursement to winning bidders in an amount equal to the difference between the last good faith bid prior to the completion of the sale and what the winning bidder finally paid for the domain name, as well as pre-judgment interests and costs.

THIRD CAUSE OF ACTION

Violation of Cal. Bus. & Prof. Code § 17200, *et seq.*

(On behalf of Plaintiff and both Classes)

70. Plaintiff incorporates by reference the foregoing allegations.

71. Defendants' acts and practices as alleged herein constitute unlawful, unfair, and/or fraudulent business practices in violation of California's Unfair Competition Law, Cal. Bus. & Prof. Code § 17200, *et seq.*

72. Defendants Oversee.net and SnapNames.com engaged in unlawful business practices by, among other things:

- a. engaging in conduct, as alleged herein, that violates the California Auction Law, Cal. Civ. Code § 1812.608(h)(2);
- b. engaging in conduct, as alleged herein, that violates Cal. Civ. Code §§ 1709, 1710, 1572, and 1573; and
- c. engaging in conduct that undermines or violates the stated policies underlying the California Auction Law, Cal. Civ. Code § 1812.608(h)(2) and Cal. Civ. Code §§ 1572, 1573, 1709, and 1710, each of which seek to protect consumers against unfair and sharp business practices and to promote a basic level of honesty and reliability in the marketplace.

73. Defendants Oversee.net and SnapNames.com engaged in unfair business practices by, among other things:

- a. engaging in conduct the utility of which is outweighed by the gravity of the consequences to Plaintiff and the Classes;
- b. engaging in conduct that is immoral, unethical, oppressive, unscrupulous or substantially injurious to Plaintiff and the Classes; and
- c. engaging in conduct that undermines or violates the stated policies underlying the California Auction Law, Cal. Civ. Code § 1812.608(h)(2) and Cal. Civ. Code §§ 1572, 1573, 1709, and 1710, each of which seek to protect consumers against unfair and sharp business practices and to promote a basic level of honesty and reliability in the marketplace.

74. Defendants Oversee.net and SnapNames.com engaged in fraudulent business practices by engaging in conduct that was and is likely to deceive consumers acting reasonably under the circumstances. Defendants' fraudulent business practices include but are not limited to:

- a. failing to disclose the true facts about Defendants' employees participating in auctions as shill bidders;
- b. charging customers for artificially inflated bids for Internet domain names that would have been purchased for substantially lower prices if no shill bidding had occurred;
- c. interfering with free, fair, and independent bidding on Internet domain names by Defendants' customers; and
- d. charging customers fees for inflated bids.

75. As a direct and proximate result of Defendants' unlawful, unfair, and fraudulent acts, business practices, and conduct, Plaintiff and the other members of the Classes have suffered injury in fact and lost money in that, among other things:

1 a. Plaintiff and the other members of the Classes would not have utilized
2 Defendants' auction services; and

3 b. Plaintiff and the other members of the Classes would have purchased
4 Internet domain names for substantially lower prices.

5 **FOURTH CAUSE OF ACTION**

6 **Breach of Fiduciary Duty**

7 **(On behalf of Plaintiff and both Classes)**

8 76. Plaintiff incorporates by reference the foregoing allegations.

9 77. Defendants held positions of trust and confidence with Plaintiff and the other
10 members of the Classes.

11 78. Defendants abused their positions of trust and confidence to further their
12 private interests by engaging in shill bidding.

13 79. Defendants acted with fraud, oppression, and/or malice.

14 80. Plaintiff and the other members of the Classes have sustained losses as a
15 direct and proximate result of Defendants' wrongful actions described herein in an amount to
16 be determined at trial.

17 **FIFTH CAUSE OF ACTION**

18 **Fraudulent Concealment**

19 **(On behalf of Plaintiff and both Classes)**

20 81. Plaintiff incorporates by reference the foregoing allegations.

21 82. Fraudulent concealment occurs when a defendant conceals or fails to disclose
22 a material fact during a transaction with intent to defraud the victim and has a duty to
23 disclose the material fact.

24 83. Plaintiff conducted a transaction with Defendants when he purchased an
25 Internet domain name from them.

1 84. Defendants concealed or failed to disclose that one of Defendants' employees
2 bid in the same auction solely to inflate the winning price of the domain name Plaintiff
3 purchased, thereby intentionally defrauding Plaintiff of the difference between the inflated
4 amount he paid for the domain name and the price he would have paid absent Defendants'
5 conduct alleged herein.

6 85. Defendants had a fiduciary duty to Plaintiff and a duty under Cal. Civ. Code
7 § 1812.608(h)(2) to disclose that one of Defendants' employees was bidding against Plaintiff
8 in Defendants' auction solely to inflate the final purchase price of the Internet domain name
9 Plaintiff purchased.

10 86. Plaintiff was unaware at the time of the transaction that one of Defendants'
11 employees was bidding in the auction for the domain name he purchased.

12 87. Plaintiff would not have acted as he did—paying an inflated amount due
13 solely to the fraudulent concealment by Defendants of their employee's bidding—had he
14 known he was bidding against one of Defendants' employees.

15 88. Plaintiff sustained financial damages of at least \$20.00 as a result of
16 Defendants' fraudulent conduct.

17 **SIXTH CAUSE OF ACTION**

18 **Restitution/Unjust Enrichment**

19 **(On behalf of Plaintiff and both Classes)**

20 89. Plaintiff incorporates by reference the foregoing allegations.

21 90. Plaintiff and the Classes have conferred a benefit upon Defendants.
22 Defendants have received and retained money belonging to Plaintiff and the Classes as a
23 result of their shill bidding practices described herein.

24 91. Defendants appreciate or have knowledge of said benefit.
25
26
27
28

- 1 F. Award restitution against Defendants for all money to which Plaintiff and the
2 Classes are entitled in equity;
- 3 G. Award Plaintiff and the Classes their reasonable litigation expenses and
4 attorneys' fees;
- 5 H. Award Plaintiff and the Classes pre- and post-judgment interest, to the extent
6 allowable;
- 7 I. Enter injunctive and/or declaratory relief as is necessary to protect the
8 interests of Plaintiff and the Classes; and
- 9 J. Award such other and further relief as equity and justice may require.

10 **JURY TRIAL**

11 Plaintiff demands a trial by jury for all issues so triable.

12 Respectfully submitted,

13 Dated: November 18, 2009

KAMBEREDELSON, LLP

14
15 By: 

16 ALAN HIMMELFARB

One of the Attorneys for Plaintiff

17 ALAN HIMMELFARB - SBN 90480
18 KAMBEREDELSON, LLP
19 2757 Leonis Boulevard
20 Vernon, California 90058
Telephone: (323) 585-8696

21 JAY EDELSON
22 MICHAEL J. ASCHENBRENER
23 BENJAMIN H. RICHMAN
24 KAMBEREDELSON, LLC
25 350 North LaSalle Street
26 Suite 1300
Chicago, Illinois 60654
Telephone: (312) 589-6370
Fax: (312) 589-6378

27
28 COMPLAINT

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Margaret M. Morrow and the assigned discovery Magistrate Judge is Victor B. Kenton.

The case number on all documents filed with the Court should read as follows:

CV09- 8497 MMM (VBKx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====:

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☒ **Western Division**
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

☐ **Southern Division**
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

☐ **Eastern Division**
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

Name & Address:

Alan Himmelfarb

KAMBEREDELSON, LLP

2757 Leonis Blvd., Los Angeles, CA 90058

(323) 585-8696, ahimmelfarb@kamberedelson.com

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIASTEWART RESMER, an individual, on behalf of
himself and all others similarly situated,

PLAINTIFF(S)

v.

OVERSEE.NET, INC., a California corporation, and
SNAPNAMES.COM, INC., an Oregon Corporation,

DEFENDANT(S).

CASE NUMBER

CV 09-8497 MMM VBKx

SUMMONS

TO: DEFENDANT(S): OVERSEE.NET, INC., and SNAPNAMES.COM, INC.

A lawsuit has been filed against you.

Within 20 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ _____ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Alan Himmelfarb, KamberEdelson, whose address is 2757 Leonis Blvd., Los Angeles, CA 90058. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

18 NOV 2009

Dated: _____

Clerk, U.S. District Court

By: 

Deputy Clerk

(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

BY FAX

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/> STEWART RESMER, an individual, on behalf of himself and all others similarly situated		DEFENDANTS OVERSEE.NET, INC., a California corporation, and SNAPNAMES.COM, INC., an Oregon Corporation,	
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) Alan Himmelfarb, KAMBEREDELSON, LLP 2757 Leonis Blvd., Los Angeles, CA 90058 (323) 585-8696, ahimmelfarb@kamberedelson.com		Attorneys (If Known)	

II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)		III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%"><thead><tr><th></th><th>PTF</th><th>DEF</th><th></th><th>PTF</th><th>DEF</th></tr></thead><tbody><tr><td>Citizen of This State</td><td><input checked="" type="checkbox"/> 1</td><td><input type="checkbox"/> 1</td><td>Incorporated or Principal Place of Business in this State</td><td><input type="checkbox"/> 4</td><td><input checked="" type="checkbox"/> 4</td></tr><tr><td>Citizen of Another State</td><td><input type="checkbox"/> 2</td><td><input type="checkbox"/> 2</td><td>Incorporated and Principal Place of Business in Another State</td><td><input type="checkbox"/> 5</td><td><input checked="" type="checkbox"/> 5</td></tr><tr><td>Citizen or Subject of a Foreign Country</td><td><input type="checkbox"/> 3</td><td><input type="checkbox"/> 3</td><td>Foreign Nation</td><td><input type="checkbox"/> 6</td><td><input type="checkbox"/> 6</td></tr></tbody></table>					PTF	DEF		PTF	DEF	Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input checked="" type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
	PTF	DEF		PTF	DEF																								
Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input checked="" type="checkbox"/> 4																								
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5																								
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																								

IV. ORIGIN (Place an X in one box only.) <input checked="" type="checkbox"/> 1 Original Proceeding <input type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from another district (specify): <input type="checkbox"/> 6 Multi-District Litigation <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judge							
--	--	--	--	--	--	--	--

V. REQUESTED IN COMPLAINT: JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (Check 'Yes' only if demanded in complaint.)	
CLASS ACTION under F.R.C.P. 23: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> MONEY DEMANDED IN COMPLAINT: \$	

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.) 28 U.S.C. § 1332	
---	--

VII. NATURE OF SUIT (Place an X in one box only.)					
OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	TORTS PERSONAL PROPERTY <input checked="" type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General Habeas Corpus <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609

CV09-8497

FOR OFFICE USE ONLY: Case Number: _____

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

VIII(a). **IDENTICAL CASES:** Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes

If yes, list case number(s): _____

VIII(b). **RELATED CASES:** Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.

☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles - Plaintiff STEWART RESMER	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.

☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles - OVERSEE.NET, INC.,	Oregon - SNAPNAMES.COM, INC.,

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.

Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles, California	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved.

X. SIGNATURE OF ATTORNEY (OR PRO PER): _____

Date November 18, 2009

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))